APPELLANT PRO SE:

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ATTORNEY FOR APPELLEE:

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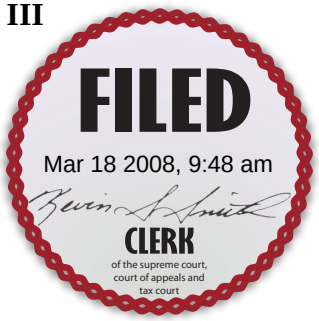

IN THE
COURT OF APPEALS OF INDIANA

IN RE: THE MARRIAGE OF:	)	
	)	
ANNA CALABRESE,	)	
	)	
Appellant-Petitioner,	)	
	)	
vs.	)	No. 45A03-0610-CV-458
	)	
ROBERT CALABRESE,	)	
	)	
Appellee-Respondent.	)	

APPEAL FROM THE LAKE SUPERIOR COURT
CIVIL DIVISION, ROOM 3
The Honorable Elizabeth F. Tavitas, Judge
Cause No. 45D03-0402-DR-113

March 18, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

RILEY, Judge

STATEMENT OF THE CASE

Appellant-Petitioner, Anna Calabrese (Anna), appeals the trial court's Order granting Appellee-Respondent, Robert Calabrese (Robert), full and unsupervised visitation with their minor child, R.C.

We affirm.

ISSUES

Anna raises a total of nine issues on appeal, which we consolidate and restate, per Robert's brief, as the following two issues:

(1) Whether the trial court abused its discretion when it awarded Robert unsupervised parenting time in accordance with the recommendation of the Guardian Ad Litem (GAL); and

(2) Whether the trial court abused its discretion in granting Robert the right to make medical and educational decisions for his son, R.C.

FACTS AND PROCEDURAL HISTORY

Anna and Robert were married on April 1, 1978, and divorced on October 19, 2004. The trial court granted Anna physical custody of the couple's one unemancipated child, R.C., who has Down's syndrome. Anna appealed the Decree, asserting numerous errors by the trial court. On September 20, 2006, in *Calabrese v. Calabrese*, Cause No. 45D03-0404-DR-113, we affirmed the trial court's findings and judgment in the Decree, except for its calculation of spousal maintenance.

Beginning December 6, 2004, in the midst of her appeal of the Decree, Anna filed numerous motions, including a Motion for Increase in Child Support, Motion for Contempt

for Non-Payment of Taxes, Motion for Contempt for Non-Payment of Monthly Expenses, Motion for Contempt for Non-Payment of Child Support, and a Motion for Production of Life Insurance Policy and Trust Documents. On May 31, 2005, a hearing was held on all of these motions. Thereafter, Anna filed a Motion for Contempt, Fraud, and Failure to Obey the May 31, 2005 "order," although the trial court had not yet issued any order.

On July 21, 2005, the trial court entered an Order based on the hearing held on May 31, 2005. In its Order, the trial court found Robert in contempt for (1) non-payment of certain household expenses, (2) failure to make certain monthly payments, (3) his failure to provide evidence of life insurance, and (4) non-payment of real estate taxes. Anna appealed the trial court's decision. On December 20, 2006, in *Calabrese v. Calabrese*, Cause No. 45A03-0509-CV-463, we waived review of Anna's appeal for failing to state a cogent argument pursuant to Ind. Appellate Rule 46(A)(8).

On February 22, 2006, Robert filed a Petition for Emergency Change of Custody. The trial court conducted hearings and heard evidence on May 31, 2006, June 1, 2006, and July 12, 2006. Thereafter, on August 2, 2006, the trial court entered a comprehensive Order, stating, in pertinent part,

> 1. CUSTODY
>
> [Robert's] Petition for Change of Custody is DENIED. Accordingly, [Anna] shall retain custody of the parties' minor child, R.C., except as ordered i[n] section 2 herein.

2. EDUCATION HEALTHCARE DECISIONS

* * *

> [Robert] is granted the exclusive right and authority to make the final and ultimate decision concerning matters of [R.C.'s] healthcare and education.
>
> In regard to **medical decisions**, [Anna] shall aid [Robert] in obtaining any past records advising him also of the contact welfare case worker, while [Robert] shall keep [Anna] reasonably informed as to all ongoing or contemplated healthcare matters, including the identity of any providers and the results of any testing, evaluations, and/or treatment. The parties shall make a good faith effort to reach an agreement on these matters, but barring the same, and/or in the event of emergency needs, [Robert] shall have the exclusive right and authority to make the final decision concerning such.
>
> In regard to **education decisions**, the parties shall discuss [R.C.'s] educational needs and [Anna] shall have the right to participate in the decision-making process including any hearings or discussions with school officials concerning [R.C.'s] educational needs.

* * *

4. VISITATION

> Based on the evidence presented, the [trial c]ourt finds that the prior order for supervised visitation between [Robert] and [R.C.] is no longer necessary. Accordingly, the [c]ourt hereby ORDERS that [Robert] be granted full and unsupervised visitation with [R.C.] pursuant to the Indiana Parenting Guidelines.

(Appellant's App. pp. 11-13).

Anna now appeals. Additional facts will be provided as necessary.

DISCUSSION AND DECISION

Anna is no stranger to the appellate process: this is her third appeal since the Divorce Decree was entered on October 19, 2004. While we cautioned Anna in her first appeal that her brief fell short of the required standard as prescribed by App. R. 46(A)(8)(a), we chose to

parse out the arguments with merit for our review; however, we declined to do so in her second appeal. Due to her lack of compliance with the Indiana Appellate Rules, we waived her claims raised in her second appeal. Again, here, Anna fails to present us with an argument supported by cogent reasoning pursuant to App. R. 46(A)(8). While we applaud Robert's counsel for trying to make sense of Anna's vitriol and his attempt to develop and respond to Anna's purported legal arguments, we refuse to do the same.

We find it worth repeating that:

> It must be made plain that the purpose of a brief is to present to the court in concise form the points and questions in controversy, and by fair argument on the facts and law of the case to assist the court in arriving at a just and proper conclusion. A brief in no case can be used as a vehicle for the conveyance of hatred, contempt, insult, disrespect, or professional discourtesy of any nature for the court of review, trial judge, or opposing counsel. Invectives are not argument and have no place in legal discussion, but tend only to produce prejudice and discord. The language [used by Anna] is offensive, impertinent, and scandalous. There is nothing in the record to warrant or excuse it.

Clark v. Clark, 578 N.E.2d 747, 748 (Ind. Ct. App. 1991).

Significant portions of Anna's brief are permeated with disrespect, and at times, outrageous remarks made against the trial participants, which border on insults—or, as stated by Robert's counsel, "madness." (Appellee's Br. p. 13). Anna's allegations range from the commissions of crimes to unethical judicial conduct. Her brief is littered with statements like:

> The transcripts . . . shows the trial court and the GAL, 2 females, are bias [sic] and not impartial, have let their personal feelings get in the way of their decisions and actions, and have caused child endangerment to [R.C.] sexually, educationally, and medically.
>
> * * *

> The court deliberately kept hidden this hearing where it abused its discretion numerous times and continued the court's abuse of discretion on the continuance date of July 12, 2006. The [c]ourt [r]eporter has placed the June 19, 2006 date on the cover and you would not know it is there.

(Appellant's Br. pp. 12 and 7). Anna reaches the conclusion that the GAL's "bias" is the result of the GAL's jealousy of Anna and her legal work and performance in court. She maintains that the instant trial court's Order regarding R.C.'s educational and medical decisions somehow violates Indiana's prohibition against slavery.

Nevertheless, Anna saved the most abusive invective for her reply brief:

> Anna's [b]rief shows the trial court abused its discretion as revenge and punishment to Anna for filing [a]ppeals as if she does not have a right to file [a]ppeals, for getting an attorney as if she does not have a right to have an attorney, and for the trial court's lack of jurisdiction in [s]pecial [e]ducation has no place in the American people's court and is not applying the laws and complying with the laws, it is tyranny.
>
> * * *
>
> Do you know how frustrating it is to be fraudulently falsely accused of not medically treating your special child God has entrusted to you and not allowed by the trial court to present your medical exhibit evidence proving your innocence?! Do you know how frustrating it is to have your Exhibit #4 victory in a Due Process Hearing to improve your child's [s]pecial [e]ducation by a completely independent professional proving the [s]chool was not appropriately education your child be completely ignored?!
>
> * * *
>
> Robert had no evidence he did anything to help [R.C.] in [s]chool! Nada, Zip, Zero! Just nothing but false fraudulent complaints!

(Appellant's Reply Br. pp. 6, 12, and 14).

Anna's briefing style is a rambling, disjointed recitation of facts without any legal support or recitation to precedents and essentially amounts to aggressive self-advocacy that

has no place in appellate practice. For the use of impertinent, intemperate, and scandalous language in briefs on appeal impugning or disparaging the trial court or opposing counsel, we have the plenary power to order a brief stricken from our files and to affirm the trial court without further ado. *See Clark*, 578 N.E.2d at 748. While we choose not to strike Anna's brief today, we will waive her argument for failing to comport with Indiana Appellate Rule 46(A)(8). However, we caution Anna not to confuse this with approval or condoning of the disrespectful, and at times, outrageous remarks and allegations made in the body of her brief and reply brief. We appreciate vigorous advocacy, but we will not countenance the sort of lawyering exhibited here. As such, we agree with Anna's statement on the title-page of her brief, "Appellant in Want of Counsel."

CONCLUSION

Based on the foregoing, we conclude we waive our review of Anna's appeal of the trial court's Order.

Affirmed.

MAY, J., concurs.

KIRSCH, J., concurs in result.